

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

Contempt Petition No. 62 of 2007
in
Writ Petition No. 1044 of 2007

Azami Charitable Trust
and others

..Petitioners

vs.

1. The Maharashtra Housing and
Area Development Authority
and another

..Respondents

Shri V.R.Tripathi for petitioners.
Shri Milind More, A.G.P. for respondents.

CORAM: S.C.DHARMADHIKARI J.
4th August, 2007

P.C.

1. This Court in Writ Petition (Ld) No.936 of 2007 had passed the following order on 23rd April, 2007.

"Learned Counsel appearing for respondent no.2 at the threshold submits that the proposal submitted by the petitioners is under active consideration of the competent authority and they would pass the order expeditiously and that the same has to be then dealt with finally by the Govt. of Maharashtra. In view of the statement made on behalf of the respondents no grievance survives at this stage. Petition is accordingly disposed of.

We do hope that the Competent Authority of the State Govt. shall pass the order expeditiously and in any case not less than 8 weeks from today."

2. The Maharashtra Housing and Area Development Authority had assured this Court that the proposal submitted by the petitioners is under consideration of the competent authority and the orders would be passed as expeditiously as possible thereon. The petition was disposed of recording this statement.

3. The time was given of 8 weeks to dispose of the proposal/application.

4. Since 8 weeks were over and no order was communicated so also non responding to the queries made, the original petitioners have filed this contempt petition.

5. When this contempt petition was placed on board, Shri More, learned A.G.P. appearing for the respondents, sought time to take instructions and at his request time was granted till today. The petition is dated 27th July, 2007. It was duly served and placed before me on 2nd August, 2007.

6. At the request of the learned A.G.P. the matter was adjourned till today.

7. During the course of the arguments today a copy of the order passed by the Chief Officer of Bombay Board dated 2nd August, 2007 has been placed before me stating that the application/proposal of the petitioners has been considered and rejected.

8. Shri More, therefore, submits that no proceedings under the Contempt of Courts Act be initiated, now, that the order has been passed. He submits that there is a delay in passing this order and the same be condoned as it has occurred on account of administrative exigencies and for bonafide reasons.

9. There is no affidavit in reply filed. Thus, there are no reasons forthcoming for the delay. Time and again, the experience is that the authorities do not comply with the Court's directions to dispose off pending applications/proceedings within a specific period. There are no applications preferred requesting extension of time. The orders of this Court are duly communicated but there is no compliance. In contempt proceedings, a request is made for taking a lenient view.

10. The Chief Officer who has passed this order and who was bound to consider the proposal/application is not present in Court. The apology is tendered orally. Nothing prevented Shri More, learned A.G.P. or the Chief Officer from pointing out to the Court on 2nd August, 2007 that the order has yet to be passed and that some time be granted to do the needful. Nothing prevented the respondents from moving the Hon'ble Division Bench for extension of time for passing the order. It is only when the contempt petition is served that the order is passed and now tendered on file.

11. Now, that the order is passed, although belatedly, no action is being taken under the Contempt of Courts Act, 1971. However, it is time to remind the respondents that their first and foremost duty is towards the Courts and the Courts orders are meant to be taken seriously. They are to be respected and acted upon. The same degree of response is expected while conducting the court proceedings. There is a tendency to take the court's order casually and lightly. The respondents should not be under an impression that oral apology tendered at any stage would suffice and the courts would accept it without

the same being placed on affidavit.

12. When the Court does not insist on technicalities it expects the officers to respond to the Court's order in a manner befitting the dignity and status of their office.

13. In this behalf attention of all concerned is invited to the following observations of the Supreme Court in the decision reported in AIR 1997 Supreme Court 1390 (State of Bihar and others Vs. Subhash Singh).

"...The doctrine of "full faith and credit" applied to the acts done by the officers and presumptive evidence of regularity of official acts done or performed, is apposite in faithful discharge of duties to elongate public purpose and to be in accordance with the procedure prescribed. It is now settled legal position that the bureaucracy is also accountable for the acts done in accordance with the rules when judicial review is called to be exercised by the Courts. The hierachical responsibility for the decision is their in built discipline. But the Head of the Department/designated officer is ultimately responsible and accountable to the Court for the

result of the action done or decision taken. Despite this, if there is any special circumstances absolving him of the accountability or if some one else is responsible for the action, he needs to bring them to the notice of the Court so that appropriate procedure is adopted and action taken. The controlling officer holds each of them responsible at the pain of disciplinary action. The object thereby is to ensure compliance of the rule of law."

"5. It is true and we are alive to the fact that when the officer is to take steps as per the decision, some delay may occasion and generally the Courts would be reluctant to impose costs personally against the officers. But the officers are required to go to the Court, give the appropriate explanation and satisfy the Court that they were prevented by circumstances for non compliance within the time specified by the Court. It is equally salutary to note that if the High Court feels it necessary to impose costs personally against the officers, the Court is required to enquire after giving notice and reasonable opportunity to the officer who could not be

impleaded earlier or was not on record, to explain the reasons for non compliance of the order or decision taken to file the proceedings. It is known fact that in transaction of the Government business, none would own personal responsibility and decisions are leisurely taken at various levels. It is not uncommon that delay would be deliberately caused to confer advantage to the opposite litigant; more so when stakes involved are high or persons are well connected/influential or due to obvious considerations."

I am sorry to state that in the present case the Chief Officer has demonstrated some what casual approach and has thought that by producing the order before the Court he will get away from the proceedings. While not taking any action against him and warning him to be careful in future the matter is closed by imposing costs of Rs.10,000/- for the unexplained delay in passing the order. Such costs to be paid within two weeks from today. Contempt petition is disposed of accordingly.

14. Registry is directed to send the copy of this order to the Principal Secretary, Housing and special Assistance Department, Mantralaya, Mumbai for Information and

necessary action.

(S.C.DHARMADHIKARI J.)